IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No 16398 of 2006
Date of decision 16.10.2006

Gurcharan Singh .. petitioner

Versus

Union of India and others .. Respondents

CORAM: HON'BLE MR. JUSTICE M.M. KUMAR
HON'BLE MR. JUSTICE M.M.S. BEDI

PRESENT: Mr.AS Jattana , Advocate for the petitioner

M.M.Kumar, J.

The petitioner has approached this Court against the order of his discharge which was passed in September, 2006 (Annexure P.7). It is appropriate to mention that the petitioner applied for the General Duty Guard . He applied and was asked to report on 20.8.2004 vide call letter dated 22.7.2004 (Annexure P.1). To verify the antecedents of the petitioner verification report from the home address of the petitioner was called on 18.3.2005 and it was found that a case FIR No. 41 dated 14.3.2004 has been registered against him under Sections 406/420 IPC at P.S.Sidhawan Bet. As a consequence of the afore-mentioned information a show cause (Annexure P.3) was issued to the petitioner on 25.7.2006 to which the petitioner duly replied vide letter dated 7.8.2006 (Annexure P.4). However, the respondents passed the order of discharge by placing reliance on Table underneath Rule 13 (3) item III(v) of the Army Rules, 1954. The afore-mentioned order of discharge is the subject matter of challenge in this petition filed under Article 226 of the Constitution.

Having heard the learned counsel at a considerable length we

find that the petitioner has been discharged at the initial stage on the ground that a criminal case has been registered against him in case FIR No. 41 dated 14.3.2004 under Sections 406/420 IPC at P.S.Sidhawa Bet. It is well settled that before a person is confirmed on the post if the employer comes across registration of criminal case then such a person cannot be permitted to continue and the order of discharge would be well within the rights of the employer. Therefore, the exercise of power under Rule 13(3) Item III (v) of the Rules is unexceptionable and the writ petition is liable to be dismissed.

For the reasons afore-mentioned, this petition fails and the same is dismissed.

(M.M.Kumar)
Judge

(M.M.S.Bedi)
Judge

16.10.2006
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